UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EVANS L. MADISON, Plaintiff, v. CAROLYN W. COLVIN Defendant.	CASE NO. C13-1998JLR ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

I. INTRODUCTION

This matter comes before the court on the Report and Recommendation ("R&R") of United States Magistrate Judge John L. Weinberg (R&R (Dkt. # 22)) to affirm the decision of the Administrative Law Judge ("ALJ") denying Plaintiff Supplemental Security Income, and Plaintiff's objections thereto (Obj. (Dkt. # 25)). The court has carefully reviewed the foregoing, other relevant documents, and the governing law. Accordingly, the court ADOPTS the R&R, AFFIRMS the decision of the ALJ,

DISMISSES Mr. Madison's complaint with prejudice, and ORDERS the Clerk to direct copies of this order to all counsel of record and to Magistrate Judge Weinberg.

II. BACKGROUND

At the time of his administrative hearing, Mr. Madison was forty-five years old and had a high school education. (AR (Dkt. # 15) at 24.) He had no past relevant work as defined by the Social Security Act. (AR at 24.) Mr. Madison filed for benefits alleging disability that began on March 8, 2006. (AR at 158.) Mr. Madison alleged multiple impairments including a seizure disorder, connective tissue disorder, and left leg weakness. (AR at 17-18.) The Commissioner denied Mr. Madison's application initially (AR at 58-69) and upon reconsideration (AR at 70-83). The ALJ held a hearing on July 10, 2012 (AR at 31-57), and subsequently denied benefits after finding that Mr. Madison was not disabled (AR at 15-25). The Appeals Council denied Mr. Madison's request for review, making the ALJ's ruling the final decision of the Commissioner. (AR at 1-6.) Mr. Madison sought judicial review of the Commissioner's decision. (Am. Compl. (Dkt. # 2).) On May 16, 2014, Magistrate Judge Weinberg issued an R&R recommending that the court affirm the ALJ's decision. (R&R.) Mr. Madison filed objections to the R&R. (Obj.) Mr. Madison's objections are now before the court.

III. STANDARD OF REVIEW

A district court has jurisdiction to review a Magistrate Judge's report and recommendation on dispositive matters. *See* Fed. R. Civ. P. 72(b). "The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." *Id.* "A judge of the court may accept, reject, or modify, in whole

or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). The court reviews de novo those portions of the report and recommendation to which specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). "The statute makes it clear that the district judge must review the magistrate judge's findings and recommendations de novo if objection is made, but not otherwise." *Id.*

IV. DISCUSSION

With one exception, Mr. Madison's objections reiterate arguments he made before Magistrate Judge Weinberg. (*See* Obj.) First, Mr. Madison challenges the ALJ's decision to discredit Mr. Madison's testimony on the intensity, persistence, and limiting effects of his impairments. (Obj. at 7-9.) Second, Mr. Madison disputes the sufficiency of the ALJ's justification to place less weight upon the opinions of Dr. Timothy Joos and Dr. David Widlan. (Obj. at 4-7.) Finally, he contends that the ALJ improperly failed to address the medical opinion of Dr. Jessica LeBlanc and, therefore, the court should credit her opinion as true. (Obj. at 3-4.) In his objections to the R&R, Mr. Madison expands upon this argument, asserting that Magistrate Judge Weinberg violated the *Chenery* doctrine by supplying judicial reasons to reject the opinion of Dr. Leblanc instead of relying upon the administrative record. (Obj. at 1-4.)

After careful review, this court rejects Mr. Madison's arguments. First, the ALJ provided sufficient reasoning to discredit Mr. Madison's testimony. Magistrate Judge Weinberg noted that the ALJ had provided "five specific reasons" to discount Mr. Madison's testimony. (R&R at 6.) For example, the ALJ discounted Mr. Madison's

claims of leg weakness, emphasizing Mr. Madison's statements to Dr. Joos that he exercised "between five and ten hours a week." (AR at 22.) The ALJ's reasons are cogent and specific. In combination, the court finds these reasons clear and convincing. In contrast to the conclusory and wholesale rejection of the claimant's testimony seen in *Lester v. Chater*, 81 F.3d 821, 834 (9th Cir. 1996), the ALJ in this case provided specific and convincing reasoning to discredit Mr. Madison's testimony.

Second, the ALJ provided sufficient reasoning to give little weight to the controverted medical opinions of Dr. Joos and Dr. Widlan. As Magistrate Judge Weinberg notes, the ALJ only needed to provide specific and legitimate reasons to discount controverted medical opinions. (R&R at 8 (citing *Valentine v. Comm'r.*, 574 F.3d 685, 692 (9th Cir. 2009)).) The opinions of Dr. Joos and Dr. Widlan are controverted. Thus, the ALJ's finding that the opinions of Dr. Joos and Dr. Widlan were overly, although not solely, reliant on Mr. Madison's subjective complaints is sufficient to place little weight upon them. (AR at 23); *Magallanes v. Bowen*, 881 F.2d 747, 751 (9th Cir. 1989) ("The ALJ can meet this burden by setting out a detailed and thorough summary of the facts and conflicting clinical evidence, stating his interpretation thereof, and making findings." (internal quotation marks and citation omitted)). The opinions' overreliance on the discredited subjective complaints of Mr. Madison permitted the ALJ to accord them less weight, preferring other medical opinions that had a greater emphasis on objective evidence.

Third, the ALJ's failure to discuss Dr. Leblanc's opinion was a harmless error. The court agrees with Magistrate Judge Weinberg's assessment of this issue. (R&R at 8-

10.) It is true that the ALJ in this case "did not recite the magic words" explicitly rejecting the opinion of Dr. Leblanc, "[b]ut our cases do not require such an incantation." *Magallanes v. Bowen*, 881 F.2d at 755. The Magistrate Judge and this court "are not deprived of our faculties for drawing specific and legitimate inferences from the ALJ's opinion." *Id.* When the court applies *Magallanes* in this case, it is clear why the ALJ chose not to place weight upon Dr. LeBlanc's medical opinion. Like Dr. Joos and Dr. Widlan, Dr. LeBlanc relied upon Mr. Madison's self-reported complaints. The ALJ discredited Mr. Madison's subjective complaints. The ALJ, therefore, placed less weight upon medical evidence which itself relied upon Mr. Madison's subjective complaints, the very evidence the ALJ had already discredited. The ALJ's failure to mention Dr. LeBlanc's opinion is error. Nevertheless, given that the ALJ conveyed a broad skepticism of Mr. Madison's testimony throughout the decision, the ALJ could have properly rejected Dr. LeBlanc's controverted opinion with a simple statement that he placed little weight on it. Thus, failure to mention the opinion is a harmless error.

Magistrate Judge Weinberg did not, as Mr. Madison contends, run afoul of *SEC v. Chenery Corp. (Chenery II)*, 332 U.S. 194, 202 (1948) (requiring that reviewing courts not go beyond the the agency's own reasoning when looking for substantial evidence to sustain administrative decisions). Rather, Magistrate Judge Weinberg "constrained [his] review [to] the reasons the ALJ asserts." *Connett v. Barnhart*, 340 F.3d 871, 874 (9th Cir. 2003) (citing *Chenery Corp.*, 332 U.S. at 194, 196, 197). The court finds the ALJ's failure to explicitly reject Dr. LeBlanc's opinion was harmless because of reasoning the ALJ himself supplied, not reasoning this court or Magistrate Judge Weinberg supplied.

The main thrust of the ALJ's decision is his skepticism of Mr. Madison's testimony and the deemphasis of medical opinions that rely upon Mr. Madison's subjective reports. (AR at 21-24.) To remand in this case "would be an idle and useless formality." *NLRB v. Wyman-Gordon*, 394 U.S. 759, 766 n.6 (1969), for it would simply require the ALJ to include a statement that he places little weight upon the opinion of Dr. LeBlanc. The ALJ's decision is not "seriously contestable." *Id.*

V. CONCLUSION

For the foregoing reasons, the court ADOPTS the R&R (Dkt. # 22), AFFIRMS the decision of the ALJ (AR (Dkt. # 15-2) at 15-25), DISMISSES Mr. Madison's complaint (Dkt. # 2) with prejudice, and ORDERS the Clerk to direct copies of this Order to all counsel of record and to Magistrate Judge Weinberg.

Dated this 15th day of July, 2014.

JAMES L. ROBART
United States District Judge